

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1430 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

A'BAD MUNICIPAL CORPORATION

Versus

BHAGYODAYA CO.OP. BANK LTD.

Appearance:

Mr.Sanjeev Dave for MR SI NANAVATI for appellant
No one is present on behalf of the respondent
although the name of the learned counsel
representing the respondent has also been shown
in the Board.

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 15/04/99

ORAL JUDGEMENT

This Appeal under S.411 of the B.P.M.C.Act is directed against the order passed by the Small Causes Court at Ahmedabad in Municipal Valuation Appeal No.4974/86. From the xerox copy of the certified copy,

which is available in the papers of this case, the date of the impugned order is not discernible although it appears that the certified copy was signed on 23.6.88 by the Dy.Registrar.

The premises in question is of S.No.8/23/2/3+4 of Ward Dariapur-Kazipur Rev.1. The Gross Rateable Value (for short 'GRV') under the B.P.M.C.Act was assessed by the Municipal corporation for the year 1985-86 at the rate of Rs.65280/-. The impugned order shows that the premises is self occupied and it admeasures 257 sq.mts.

The Small Causes Court has reduced the GRV to Rs.13884/- from Rs.65280/- by mentioning that considering the user of the premises and the area and locality of the premises, the notional rent of the premises in question should be Rs.1157/- P.M. In our considered opinion, the GRV cannot be determined on the basis of such considerations. The Small Causes Court is supposed to address itself to the relevant principles and norms inasmuch there was no expert evidence for the purpose of arriving at the figure of the notional rent, in cases where there is no contractual rent. If the premises are self occupied, the Small Causes Court ought to have considered the expert opinion and the relevant material so as to arrive at the GRV. The Small Causes Court had not held that GRV, as assessed by the Municipal Corporation at Rs.65280/-, was excessive or disproportionate and, therefore, merely by referring to the user of the premises and bald mention of the area and the locality of the premises, the GRV, as assessed by the Municipal Corporation, cannot be slashed down. In the instant case, it has been slashed down to nearly 1/5th of what had been assessed by the Municipal Corporation. The Small Causes Court had not given any cogent or lawful justification for slashing down the GRV to Rs.13884/from Rs.65280/-. We, therefore, find that the order has been passed without application of mind and without addressing the relevant considerations. The impugned order passed in M.V.Appeal No.4974/86 for the year 1985-86 with regard to the premises of the respondent Bank cannot be sustained in the eye of law and the same is hereby quashed and set aside. This Appeal is accordingly allowed. The assessment, as made by the Municipal Corporation, stands restored. No order as to costs.